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ATTORNEY FOR APPELLANT:

JESSE POAG
Newburgh, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

ANDREW R. FALK
Deputy Attorney General
Indianapolis, Indiana

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IN THE
COURT OF APPEALS OF INDIANA

DARREN R. LOCKE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 82A01-1008-CR-374
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE VANDERBURGH SUPERIOR COURT
The Honorable David D. Kiely, Judge
Cause No. 82D02-1005-FC-459

December 17, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Darren Locke appeals his sentence for Class C felony operating a motor vehicle after the forfeiture of his license for life. We affirm.

Issues

Locke raises two issues, which we restate as:

I. whether the trial court abused its discretion when it sentenced Locke; and

II. whether the sentence is inappropriate in light of the nature of the offense and the character of the offender.

Facts

On May 8, 2010, an Evansville police officer stopped Locke for speeding and discovered that Locke's driver's license was forfeited for life. The State charged Locke with Class C felony operating a motor vehicle after the forfeiture of his license for life. Locke pled guilty as charged without a plea agreement. The trial court noted that Locke had been convicted twenty times for driving without a license and that this was Locke's ninth felony conviction. The trial court also noted that Locke had pled guilty. The trial court then sentenced Locke to four years in the Department of Correction.

Analysis

I. Abuse of Discretion

Locke argues that the trial court abused its discretion when it sentenced him. We evaluate a sentence under the current "advisory" sentencing scheme pursuant to Anglemyer v. State, 868 N.E.2d 482, 491 (Ind. 2007), clarified on reh'g by Anglemyer v. State, 875 N.E.2d 218 (Ind. 2007) ("Anglemyer Rehearing"). The trial court must issue a

sentencing statement that includes "reasonably detailed reasons or circumstances for imposing a particular sentence." Anglemyer, 868 N.E.2d at 491. The reasons or omission of reasons given for choosing a sentence are reviewable on appeal for an abuse of discretion. Id. The weight given to those reasons, i.e. to particular aggravators or mitigators, is not subject to appellate review. Id.

According to Locke, the trial court abused its discretion by failing to consider the circumstances surrounding the offense as a mitigating factor. Locke contends that he was "driving only because he was fixing the vehicle for a friend." Appellant's Br. p. 4. Our supreme court held in Anglemyer Rehearing that, other than a guilty plea, "the trial court does not abuse its discretion in failing to consider a mitigating factor that was not raised at sentencing." Anglemyer Rehearing, 875 N.E.2d at 220. At the sentencing hearing, Locke did not raise the allegation that was driving because he was repairing the vehicle for a friend. Consequently, the trial court did not abuse its discretion by failing to consider this allegation as a mitigating factor.

II. Inappropriate Sentence

Locke argues that his advisory sentence is inappropriate in light of the nature of the offense and the character of the offender. Indiana Appellate Rule 7(B) provides that we may revise a sentence authorized by statute if, after due consideration of the trial court's decision, we find that the sentence is inappropriate in light of the nature of the offense and the character of the offender. When considering whether a sentence is inappropriate, we need not be "extremely" deferential to a trial court's sentencing decision. Rutherford v. State, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). Still, we must

give due consideration to that decision. Id. We also understand and recognize the unique perspective a trial court brings to its sentencing decisions. Id. Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006).

The principal role of Rule 7(B) review "should be to attempt to leaven the outliers, and identify some guiding principles for trial courts and those charged with improvement of the sentencing statutes, but not to achieve a perceived 'correct' result in each case." Cardwell v. State, 895 N.E.2d 1219, 1225 (Ind. 2008). We "should focus on the forest—the aggregate sentence—rather than the trees—consecutive or concurrent, number of counts, or length of the sentence on any individual count." Id.

The nature of the offense is that Locke drove a vehicle while his driver's license was forfeited for life. According to Locke, he was driving the vehicle because he was repairing it for a friend. An analysis of the character of the offender reveals that Locke has been convicted twenty times for driving without a license and that this was Locke's ninth felony conviction. Locke pled guilty as charged without a plea agreement.

The trial court sentenced Locke to the advisory sentence of four years. Although the nature of the offense is not particularly egregious, given Locke's extensive criminal history and the fact that he repeatedly drives despite his suspended license, the trial court's advisory sentence was lenient. We cannot say that the sentence is inappropriate in light of the nature of the offense and the character of the offender.

Conclusion

The trial court did not abuse its discretion when it sentenced Locke, and the advisory sentence is not inappropriate in light of the nature of the offense and the character of the offender. We affirm.

Affirmed.

BAKER, C.J., and VAIDIK, J., concur.